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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,010	12/14/2000	Carroll Philip Gossett	PGOSS-P002	1445
7590	03/10/2004		EXAMINER	
WAGNER, MURABITO & HAO LLP			PHILPOTT, JUSTIN M	
Third Floor			ART UNIT	PAPER NUMBER
Two North Market Street			2665	
San Jose, CA 95113			DATE MAILED: 03/10/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/738,010	GOSSETT ET AL.
	Examiner Justin M Philpott	Art Unit 2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-55 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 December 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5.6</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Objections

1. Claims 5, 36, 44 and 45 are objected to because of the following informalities: “analysis destination” (claim 5, line 3) should be changed to “analysis of destination”; “probe update ..” (claim 36, line 4) should be changed to “probe update.”; “wherein said” (claim 44, line 2) should be changed to “wherein if said”; and “previously establish” (claim 45, line 7) should be changed to “previously established”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 49-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 49 recites the limitation “a time sensitive quality of service management method of claim 49”. There is insufficient antecedent basis for this limitation in the claim. Applicant may overcome this rejection by amending claim 49 to depend upon claim 48.

Claims 50-54 are rejected for being dependent upon a rejected base claim. Applicant may overcome these rejections by amending claim 49 as suggested above.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 2, 10, 21, 22, 26, 27, 30-32, 37, 40, 41, 43-45 and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,611,519 to Howe.

Regarding claims 1, 21, 31, 41, 45 and 55, Howe teaches a time sensitive quality of service management system comprising: a communication port (e.g., source/originator 1, see col. 4, lines 53-57 and FIG. 1) for communicating information; a switching circuit (e.g., departure switch 2, see col. 4, lines 57-59; see also switching 100 and 150 in FIG. 16) for providing an output communication path (e.g., path 11) to the communication port, the switching circuit coupled to the communication port (e.g., via path 11); a processor (e.g., controlling means, see col. 4, lines 19-27, see also microprocessor 49 in FIG. 16) for directing the switching

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circuit to perform cut through routing, the processor coupled to the switching circuit; and a memory (e.g., memory 50, see FIG. 16) for storing information associated with the control (e.g., coupled to controller 120) of the switching circuit (e.g., 100, 150) by the processor (e.g., microprocessor 49), the memory coupled to the processor.

Further, regarding claim 21, Howe teaches performing pre-emptive cut through routing (e.g., see col. 4, lines 20-26) over a virtual communications channel (e.g., see col. 4, lines 37-42).

Further, regarding claim 31, Howe teaches cut through routing of a communication path probe (e.g., see col. 25, lines 12-13 regarding request) and a communication path probe update (e.g., see col. 25, lines 13-16 regarding accepting of the request; see also col. 29, lines 30-41 regarding messaging; and col. 35, line 57 – col. 36, line 3 regarding update information), and upstream forwarding of the communication path probe update (e.g., see FIG. 9 wherein paths for control messages are bi-directional, indicating messaging in upstream and downstream direction).

Further regarding claim 41, Howe teaches a communication path recovery (e.g., see FIG. 43 regarding setup process and corresponding retry in the event of a rejection).

Further, regarding claim 45, Howe teaches utilizing information associated with previously established communication paths to establish a new communication path (e.g., see col. 36, lines 4-20 regarding scheduling based upon existing routing schedules).

Further, regarding claim 55, Howe teaches establishing a communication path for communicating non-time sensitive information (e.g., see col. 4, lines 46-52).

Regarding claims 2, 22 and 32, Howe teaches a processor analyzes incoming information and determines if the incoming information has time sensitive characteristics (e.g., see col. 22,

lines 52-60 wherein hardware/software means 32/33/34 inherently determine real-time information from non-real-time information).

Regarding claims 10, 30 and 40, Howe teaches a buffer circuit for storing non time sensitive information (e.g., non real-time packets) temporarily when directed by the processor where the information is forwarded according to queuing characteristics of the buffer (e.g., see col. 23, lines 16-35 regarding input and output buffers).

Regarding claim 26, Howe teaches the time sensitive information (e.g., real-time packets) pre-empts communication of other non-time sensitive information (e.g., non real-time packets) (e.g., see col. 23, lines 21-31 wherein non real-time packets are buffered in order for real-time packets to be transmitted).

Regarding claim 27, Howe teaches virtual communication channeling is only utilized to communicate time sensitive information (e.g., see col. 4, lines 37-42).

Regarding claim 37, Howe teaches the path probe update includes information utilized to establish a communication path from a source to a destination (e.g., see col. 25, lines 1-20 and FIG. 43 wherein the requests establish source to destination communication).

Regarding claims 43 and 44, Howe teaches analyzing if a communication link to a first network device (e.g., top one of 33 in FIG. 8) is available and forwarding the information to a second network device (e.g., middle one of 33) if the first is unavailable, and if the second device indicates it is not able to establish a communication path to a final destination (e.g., one of 35), forwarding the information to a third network device (e.g., one of 34) (e.g., see col. 26, line 23 – col. 27, line 25).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-9, 11-20, 23-25, 28, 29, 33-36, 38, 39, 42 and 46-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howe in view of U.S. Patent No. 6,173,331 to Shimonishi.

Regarding claims 3, 11, 20, 23, 33, 42, 46, 48 and 53, Howe teaches the system discussed above regarding claims 2, 22, 32, 41 and 45, however, may not specifically disclose a processor directs the system to drop the incoming information with time sensitive characteristics if the switching circuit cannot output the information within specified timing constraints.

Shimonishi also teaches a quality of service management system and, specifically, teaches analyzing incoming information (e.g., see col. 1, line 61 – col. 2, line 15 regarding detecting VC and class of incoming packets) and determining if the incoming information has time sensitive characteristics (e.g., see col. 6, lines 27-38 regarding the class identifying a particular priority, wherein priority levels implicitly distinguish time sensitive information from non-time sensitive information). Further, Shimonishi teaches a processor directs the system to drop the incoming information (e.g., discarding the received packet, see col. 2, lines 10-11) with time sensitive characteristics if the switching circuit cannot output the information within specified timing constraints (e.g., if the calculated value for the identified priority class is smaller than the decision threshold; see also col. 2, lines 59-66 regarding discarding according to

delivery time value F and decision threshold). The teachings of Shimonishi provide a network node with maximum utilization of a transmission medium with reduced number of buffer requirements while ensuring minimum bandwidth for each connection (e.g., see col. 1, lines 14-45). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the teachings of Shimonishi to the system of Howe in order to provide a network node with maximum utilization of a transmission medium with reduced buffer requirements while ensuring minimum bandwidth for each connection.

Regarding claims 4, 13, 24, 34 and 54, Howe teaches determining if the switching circuit is busy performing other switching operations within specified timing constraints (e.g., see FIG. 43 wherein the call request is accepted or rejected based upon busyness of the switching circuit for a specific time). Further, Shimonishi teaches dropping information which cannot be transmitted by a specific time (e.g., see col. 2, lines 10-11 and lines 59-66). As discussed above, the teachings of Shimonishi provide a network node with maximum utilization of a transmission medium with reduced number of buffer requirements while ensuring minimum bandwidth for each connection (e.g., see col. 1, lines 14-45). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the teachings of Shimonishi to the system of Howe in order to provide a network node with maximum utilization of a transmission medium with reduced buffer requirements while ensuring minimum bandwidth for each connection.

Regarding claims 5, 6, 16, 25, 35 and 36, Howe teaches directing a switch to forward time sensitive information upon receipt and analysis of destination information in the header (e.g., see col. 33, line 66 – col. 34, line 67 regarding inserting destination information in the header and forwarding real-time information). Further, regarding claims 35 and 36, Howe

teaches adding identification (e.g., implicitly included in synchronization timing messages, see col. 29, lines 30-41) to a communication path probe, forwarding the probe by cut-through routing (e.g., see col. 12, line 40) according to destination information (e.g., according to header, see col. 12, lines 66-67, wherein a header implicitly comprises destination information), and forwarding the communication path probe update (e.g., see col. 25, lines 13-16 regarding accepting of the request; see also col. 29, lines 30-41 regarding messaging; and col. 35, line 57 – col. 36, line 3 regarding update information) according to source information (implicitly within the header).

Regarding claim 7, Howe teaches the system functions as an end use device (e.g., end device 35 in FIG. 6).

Regarding claims 8, 12, 28 and 38, Howe teaches the information and system is compatible with TCP/IP standards (e.g., see col. 15, line 9).

Regarding claims 9, 17, 29 and 39, while Howe may not specifically disclose that urgent information corresponds to a specific port associated with a timing sensitive device, Howe further teaches information may comprise data associated with urgent information applications (e.g., see col. 13, lines 35-36) which implicitly correspond to a particular timing sensitive device at a port. Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to have the urgent information corresponding to a specific port associated with a timing sensitive device, since Howe teaches information may comprise data associated with urgent information applications (e.g., see col. 13, lines 35-36) which implicitly correspond to a particular timing sensitive device at a port.

Regarding claims 14, 15 and 49, Howe teaches a cut through process is performed to resend information (e.g., see FIG. 43 regarding session retry) as soon as the header is received

and analyzed (e.g., see col. 17, lines 21-23). While Howe may not specifically disclose the header comprises timing constraints, Shimonishi teaches a header includes information (e.g., class, VCI, see col. 6, lines 30-52) which determines timing constraints (e.g., delivery time value F, see col. 2, lines 16-66). As discussed above, the teachings of Shimonishi provide a network node with maximum utilization of a transmission medium with reduced number of buffer requirements while ensuring minimum bandwidth for each connection (e.g., see col. 1, lines 14-45). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the teachings of Shimonishi to the system of Howe in order to provide a network node with maximum utilization of a transmission medium with reduced buffer requirements while ensuring minimum bandwidth for each connection.

Regarding claim 18, Howe teaches the time sensitive device is a real time device (e.g., see col. 22, lines 1-4).

Regarding claim 19, Howe teaches a buffer circuit for storing non time sensitive information (e.g., non real-time packets) temporarily when directed by the processor where the information is forwarded according to queuing characteristics of the buffer (e.g., see col. 23, lines 16-35 regarding input and output buffers).

Regarding claim 47, Howe teaches utilizing information associated with previously established communication paths to establish a new communication path (e.g., see col. 36, lines 4-20 regarding scheduling based upon existing routing schedules) and further teaches communication paths comprise paths to/from an intermediate network device (e.g., see middle node 3 in FIG. 2).

Regarding claims 50 and 52, Howe teaches cut through routing of a communication path probe (e.g., see col. 25, lines 12-13 regarding request) and a communication path probe update (e.g., see col. 25, lines 13-16 regarding accepting of the request; see also col. 29, lines 30-41 regarding messaging; and col. 35, line 57 – col. 36, line 3 regarding update information), and upstream forwarding of the communication path probe update (e.g., see FIG. 9 wherein paths for control messages are bi-directional, indicating messaging in upstream and downstream direction).

Regarding claim 51, Howe teaches the path probe update includes information utilized to establish a communication path from a source to a destination (e.g., see col. 25, lines 1-20 and FIG. 43 wherein the requests establish source to destination communication).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 6,501,733 to Falco et al., U.S. Patent No. 6,563,793 to Golden et al., and U.S. Patent No. 6,621,796 to Miklos each disclose methods of quality of service management.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M Philpott whose telephone number is 703.305.7357. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on 703.308.6602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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